IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Contempt Petition NO. 93 OF 1999

Shri Parshuram B. Kendale .... Petitioner
VS.
The State of Maharashtra and ors. ....Respondents

Mr. R.P. Sabban for petitioner.
Mr. S. K. Chincholikar , AGP for respondents.

CORAM: D. G. KARNIK **J.**

DATE: 20th September 2006

P.C.:

1. Heard learned counsel for the petitioner and learned AGP for the respondents.

2. This contempt petition is filed alleging breach of the order dated 7th December 1998 passed by the Division Bench of this court in writ petition No. 5965 of 1998, whereby the Division Bench had directed the respondents to take decision regarding releasing of the petitioners' land from the provisions of the Urban Land (Ceiling and Regulation) Act, 1976, (for short 'ULC Act',) within a period of 8 weeks.

3. The petitioners were the owners of the land bearing Gat No.21, Survey no. 8/2, Soregaon situated in the periphery of

Solapur and forming part of the Solapur agglomeration, admeasuring 67,273.44. An enquiry into the petitioners' holding was conducted under the provisions of the ULC Act and the petitioners' land bearing gat no. 81 (hereinafter referred to as the 'said land') was declared surplus. The said land was accordingly acquired and possession thereof was taken by the Government. Thereafter the said land was allotted to the State Reserve Police Force (for short SRPF) for the purpose of construction of buildings and we as a parade ground.

4. In presence of several representations received from citizens regarding the applicability of the ULC Act and acquisition of the lands situated within the peripheries of Solapur. the Government of Maharashtra took a decision and passed a Government Resolution on 1st October 1997 declaring its policy for exempting the lands falling outside the city of Solapur but within the Sholapur urban agglomeration where the acquired land was alloted to a third party but the third party had not utilised the land for the purpose which it was allotted. In view of this resolution the petitioner made a representation to the Government by letter dated 14th December 1998 stating that though his land was acquired and allotted to the SRPF, only a part of the land was used by them and therefore the remaining land should be exempted in pursuance of the Government Resolution. The petitioner also

filed a writ petition, bearing Writ petition no. 5965 of 1998, praying for release of the said land from the provisions of the ULC Act. In the said writ petition an order was passed on 7th December , relevant portion whereof is quoted below:

" In the above matter the respondents will take decision in terms of G.R. dated 01-10-1997 within 8 weeks on petitioners application for release of land. Subject to above W.P. Is rejected. All contentions of the petitioner are kept open."

5. The petitioner has alleged that despite of the order of the Division Bench his representation was not considered and the land has not been exempted from the provisions of the ULC Act. Denying tht they have committed any breach the respondents filed two affidavits in reply dated 8th September 2006 and 18th September 2006 respectively, sworn in by Mr. Pradeep M. Kaduskar, Deputy Collector and Competent Authority. Perusal of the said affidavits shows that the Government took a decision on the representation made by the petitioner and decided not to release the land but to acquire the land under the provisions of the Land Acquisition Act. Accordingly the acquisition proceedings were initiated and after following the due procedure an award was passed on 29th February 2000. Thereafter compensation was also paid to the petitioner on 17th August 2000. A photo copy of the receipt is also annexed to the second affidavit.

6. In my view the respondent have not committed any breach of the directions of this court. This court had not given the direction that the land must be released. It has only directed the Government to consider the representation of the petitioners in the light of the G.R. The representation was considered and it was decided that the land should not be released but should be acquired under the Land Acquisition Act. Accordingly the land was acquired under the Land Acquisition Act and compensation has been paid. In the circumstances there is no breach of the order of this court. The contempt petition is accordingly dismissed.

(D.G. KARNIK J.)